

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Department of Health and Environment
Agency

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Agency Contact

785-296-1291
Contact Phone Number

28-19-720
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

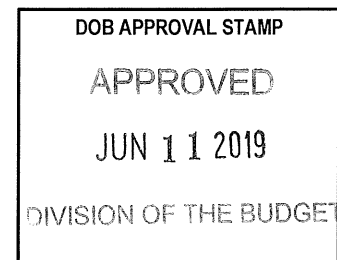
I. Brief description of the proposed rule(s) and regulation(s).

The Bureau of Air of the Kansas Department of Health and Environment (KDHE) is proposing to amend Kansas Administrative Regulation (K.A.R.) 28-19-720, "New Source Performance Standards" (NSPS). Operating under delegated authority from the Environmental Protection Agency (EPA), the state of Kansas has been designated the primary authority to implement and enforce federal standards that are adopted into state regulations. To retain primacy for these standards and maintain delegated authority from the EPA, KDHE is obligated to update these regulations periodically. The NSPS include emissions limitations, work practices, and other enforceable methods for accomplishing the goal of reducing air pollutant emissions from stationary sources in Kansas.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)*

KDHE is required to adopt current federal regulations before gaining enforcement authority to administer previously enacted federal provisions. To date, the state authority for NSPS exists only for federal rules promulgated through June 30, 2010. Facilities in Kansas are nonetheless subject to provision of federal EPA rules adopted after July 1, 2010, which the EPA has full authority to implement and enforce. The amendments being proposed are identical to the federal EPA standards, as federal standards are adopted verbatim by reference.

Colorado, Missouri, Nebraska and Oklahoma all adopt the federal NSPS requirements by reference. The Environmental Protection Agency (EPA) has established procedures by which Kansas is automatically delegated the authority to implement Federal standards when they adopt regulations which are identical to the Federal standards.



III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

These amendments are already in force at the federal level. There are no additional business enhancements or restrictions anticipated by adopting these amendments.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

The cost of compliance for Kansas businesses, public utility ratepayers, individuals and local governments is not increased, *per se*, by the proposed state rulemaking because these rules are already in force at the federal level.

C. Businesses that would be directly affected by the proposed rule and regulation;

The following table describes the source (industry) categories affected by these federal standards, as well as the number of facilities within those source categories located in Kansas. The direct affect would be the state primacy over compliance and enforcement of these standards once adopted by reference.

NSPS - Source Category	Affected Facilities
Ce - Hospital/Medical/Infectious Waste Incinerators.	2
Db - Industrial-Commercial-Institutional Steam Generating Units	16
Dc - Small Industrial-Commercial-Institutional Steam Generating Units	155
F - Portland Cement Plants	2
GG - Stationary Gas Turbines	26
III - Stationary Compression Ignition Internal Combustion Engines	229
J - Petroleum Refineries	4
JJJ - Stationary Spark Ignition Internal Combustion Engines	641
KK - Lead-Acid Battery Manufacturing Plants	3
KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants	8
KKKK - Stationary Combustion Turbines	9
LLL - Onshore Natural Gas Processing	4
NNN - Synthetic Organic Chemical Manufacturing Industry	4
O - Sewage Treatment Plants	1
OOOO - Crude Oil and Natural Gas Production, Transmission and Distribution	23
UU - Asphalt Processing and Asphalt Roofing Manufacture	4
D - Fossil-Fuel Fired Steam Generators	4
Ja - Petroleum Refineries	3
OOOOa - Crude Oil and Natural Gas Production, Transmission and Distribution	25
Da - Electric Utility Steam Generating Units	1
CCCC - Commercial and Industrial Solid Waste Incineration Units	24
Grand Total	1188

DOB APPROVAL STAMP

APPROVED

JUN 11 2019

DIVISION OF THE BUDGET

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

One major benefit of adopting the federal EPA standards is that the affected facilities get to work with the State, as opposed to the EPA, to achieve compliance. Currently, there exists a split authority to enforce these rules, with Kansas primacy for rules in effect up to July 1, 2010 and EPA for all new standards and amendments to existing promulgated after this date of adoption. This split or dual regulatory authority for implementation and enforcement of the standards subject to this rule-making could result in loss of consistency of application and possible confusion for the regulated community regarding the relative roles of the state and federal agencies.

Additionally, the State receives grant money from the federal government to implement and enforce EPA standards at the state level. These amendments are needed to maintain the States' authority under the existing delegation agreement with the EPA to ensure that the Kansas Air Quality Regulations are current and consistent with federal requirements. The cost of not adopting these regulations includes loss of ability to administer federal requirements to Kansas constituents, confusion for regulated community due to the split-authority status, as well as potential loss of grant money.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

These amendments are already in force at the federal level. No additional costs and/or impacts are anticipated by the adoption of these standards.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0.00

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\$0.00

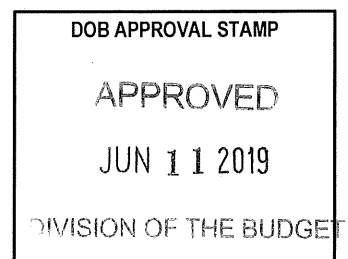
Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The cost of compliance for Kansas citizens is not increased by the proposed state rulemaking because these rules are already in force at the federal level.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated



costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.**

When the notice of hearing for these regulations is published in the Kansas Register, standard agency procedure will be followed, and the three organizations will be contacted electronically with attached copies of the regulations, economic impact statement, and published notice of hearing.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

These proposed rules are already in force at the federal level. EPA is compelled to solicit comments/information from all interested parties as part of the federal rulemaking process for every federal standard promulgated. When criticism is received, the EPA will evaluate the comments and decide whether to withdraw the rule or amend it considering the comment(s). Therefore, the proposed regulations have all been reviewed and critiqued thoroughly before adoption.

KDHE holds a meeting with the Clean Air Act Advisory Group annually and presents updates on future rulemakings for discussion. Once this administrative amendment is approved for adoption, KDHE will proceed with the required sixty-day public comment period and public hearing.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

The proposed amendments are necessary to maintain primacy for the standards incorporated by reference in the Kansas Administrative Regulations. KDHE is obligated to periodically update these adoptions to stay current and consistent with federal requirements. The cost of not adopting these regulations includes loss of ability to administer federal requirements to Kansas constituents, as well as potential loss of grant money. Additionally, the current split authority for implementation and enforcement of standards may result in confusion for the regulated community, as well as a loss of consistency in their application.

